IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.615 OF 2003

Dadaji Sukha Khare ...Appellant

vs.

Narhari Kolji Khare & Ors. ...Respondents

Mr.S.M.Railkar for the Appellant
Mr.S.Rajeshirke for Respondent Nos.1 to 3.

CORAM: A.S.OKA,J.
DATE : JULY 18, 2007.

P.C.:

1. Heard Advocates for the Appellant and the Advocate for Respondent nos. 1 to 3. Second Appeal is admitted on the following substantial questions of law :

i) Whether the Courts below committed an error by holding that the consent decree in a Suit No.131 of 1980 was not binding on the Respondents and especially Respondent Nos.1 and 2 in as much as the Respondent No.1 had signed the compromise in the said suit for and on behalf of the Respondent No.2 ?

ii) Whether both the courts below have committed an error by ignoring that the burden to establish that the consent of the first Respondent was not a free consent was on the Respondent Nos.1 and 2 and the said burden has not been discharged ?

iii) Whether the courts below could have held that the compromise decree passed in suit No.131 of 1980 was not binding on the first respondent only on the ground that when the compromise decree was passed, he was made to wait outside the court hall?

iv) Whether the suit filed by the Respondents for challenging the compromise decree was maintainable in law?

2. Printing is dispensed with. The Advocate for respondent Nos.1 to 3 waives service. The Appellant is directed to file private paper book within a period of one year from today failing which Appeal will stand dismissed for non prosecution without further reference to the court.

JUDGE